CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Communications (June 11, 1992 through June 23, 1992)

MEETING DATE: July 1, 1992

PREPARED BY: City Clerk

RECOMMENDED ACTION:

AGENDA ITEM	RECOMMENDATION
	Information only.

BACKGROUND INFORMATION: The following communication was received between the dates of June 11, 1992 and June 23, 1992.

Notice has been received from the California Public Utilities Commission (CPUC) that pursuant to Rule 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission of its intervention in proceeding Docket No. EL92-26-000 - Transmission Agency of Northern California v. Pacific Gas & Blectric Company, Southern California Edison Company, and San Diego Gas & Electric Company.

FUNDING: None required.

Alice M. Reimche
City Clerk

AMR/jmp

COUNCOM8/TXTA.02J/COUNCOM

APPROVED: _____
THOMAS A. PETERSON
City Manager

recycled paper

UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ENERGY REGULATORY COMMISSION

TRANSMISSION AGENCY OF NORTHERN CALIFORNIA v. PACIFIC GAS AND ELECTRIC COMPANY, ET. AL.	)	Docket No. EL92-26-000

MOTION TO INTERVENE BY THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF CALIFORNIA

DANIEL E. LUNGREN
Attorney General

WALTER E. WUNDERLICH
Acting Assistant Attorney General

MARK J. URBAN
Deputy Attorney General

1515 K Street, Suite 511
P.O. Box 944255
Sacramento, California 94244-2550
Telephoner (916) 324-5347

Attorneys for the California
Department of Water Resources

NOTE: Copy of full exhibit is on file in the City Clerk's office.

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Transmission Agency of Northern California, v. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company	Docket No. EL92-26-000

NOTICE OF INTERVENTION

Pursuant to Rule 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission, the California Public Utilities Commission hereby gives notice of its intervention in the above-docketed proceeding.

Respectfully submitted,

PETER ARTH, JR.
EDWARD W. O'NEILL
PETER G. FAIRCHILD

By: /s/ PETER G. FAIRCHILD
Peter G. Fairchild

505 Van Ness Avenue
San Francisco, CA 94102
(415) 703-2049

Attorneys for the California Public Utilities Commission

DATED: June 17, 1992

UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ENERGY REGULATORY COMMISSION

SOUTHERN CALIFORNIA EDISON, PACIFIC GAS AND ELECTRIC COMPANY and SAN DIEGO GAS 6 ELECTRIC COMPANY	)	Docket No. ER92-626-000

MOTION TO INTERVENE BY THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF CALIFORNIA

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UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ENERGY REGULATORY COMMISSION

SOUTHERN CALIFORNIA EDISON, PACIFIC GAS AND ELECTRIC COMPANY and SAN DIEGO GAS & ELECTRIC COMPANY	)	Docket No. ER92-626-000

INTRODUCTION

The Department of Water Resources of the State of California ("Department") seeks leave of the Federal Energy Regulatory Commission ("Commission") to intervene in the above-entitled proceeding. The Department files this motion pursuant to Section 308 of the Federal Power Act (16 U.S.C. § 825g(a)) and Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. §§ 385.211, 385.214).

The persons to whom correspondence, pleadings and other papers regarding this proceeding should be addressed and the persons whose names are to be placed on the Commission's official service list, are designated as follows pursuant to Rule 203:

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Deputy Attorney General
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Sacramento, California 94244-2550
(Telephone: 916/324-5347)

DAN HERDOCIA
Energy Division
Department of Water Resources
1416 9th Street, Roam 335-12
P. O. Box 942836
Sacramento, California 94236-0001
(Telephone: 916/322-3802)

DAVID L. RAY
Staff Counsel
Department of Water Resources
1416 9th Street, Room 1118-19
Sacramento, California 95814
(Telephone: 916/653-7604)

The address of the Department is P.O. Box 942836, Sacramento, California 94236-0001.

THE DEPARTMENT'S POWER OPERATIONS

The Department is an agency of the State of California. It is responsible for monitoring, conserving and developing California's water resources and providing public safety and preventing property damage related to water resources. A primary responsibility of the Department is the construction, operation, and maintenance of the California State Water Project ("SWP"). The SWP is an integrated network of aqueducts, reservoirs and hydroelectric facilities which delivers water to much of California.

The SWP is the single largest power consumer in California. The Department provides power for operating the SWP from generation facilities owned by the Department and from purchases and exchanges with utilities in California, the Pacific Northwest, and the Pacific Southwest.

The Department is dependent upon Pacific Gas and

Electric Company (PGLE) and Southern California (SCE) transmission systems for the delivery of certain resources to SWP loads. Under the April 1982 Comprehensive Agreement between the Department and PG&E (FERC Rate Schedule No. 77), the Department contracts for transmission services to operate the SWP in Northern and Central California. The Department has also arranged for long-term transmission service through its 1967 EHV Contract with PG&E, SCE and San Diego Gas and Electric Company (SDG&E) (FERC Rate Schedule No. 84) which provides 300 MW of entitlement on the Pacific AC Intertie. In addition, the Department has an option for future ownership of the California Oregon Transmission Project (COTP).

INTEREST O. DEPARTMENT IN THIS PROCEEDING

Section 308 of the Federal Power Act establishes the Commission's general authority to admit intervenors as parties to Commission proceedings. The Section provides, in pertinent part:

> . . . In any proceeding before it, the Commission, in accordance with such rules and regulations as it may prescribe, may admit as a party any interested State, State Commission, municipality, or any representative of interested consumers or security holders, or any competitor of a party to such proceeding, or any other person whose participation in the proceeding may be in the public interest.

Rule 214 of the Commission's Rules of Practice and Procedure set forth the Commission's criteria for intervention under Section 308 of the Act. According to that rule, a timely filed motion to intervene need only show that "[t]he movant has or represents an

interest which may be directly affected by the outcome of the proceeding." (18 C.F.R. § 385.214(b).)

SCE, PG&E and SDG&E (collectively, "the Companies") initiated this proceeding by filing, as a rate schedule, the "Coordinated Operations Agreement between [the Companies] and Participants in the California-Oregon Transmission Project." The filing sets forth rates, terms and conditions under which the Pacific AC Intertie transmission facilities, largely owned by the Companies, will be operated in coordination with the COTP. The Department is a participant in the COTP with an option for approximately 100 MW of future ownership. The Department also has existing contractual rights on the Pacific AC Intertie to 300 MW of transmission capacity. Since the COTP, the Pacific AC Intertie, and their coordinated operation are the subjects of the instant filing, the Department has an interest in assuring that the results of this proceeding do not adversely affect these existing rights.

CONCLUSION

The Department's participation in this case will be in the public interest. The Department's interest may be affected by this proceeding and will not be adequately represented by any other party. The Department reserves the right to raise any issue that may develop during the course of this proceeding.

Accordingly, the Department hereby requests that this Commission enter an order granting this Motion to Intervene.

Dated: June 22, 1992

DANIEL E. LUNGREN, Attorney General
of the State of California
WALTER E. WUNDERLICH
Assistant Attorney General
MARK J. URBAN
Deputy Attorney General

Mark Urban

MARK J. URBAN
Deputy Attorney General

Attorneys for the California
Department Of Water Resources

DECLARATION OF SERVICE BY MAIL

Case Name: Pacific Gas & Electric Company
Docket No.: FERC Proceeding No. ER92-410-000

1. I declare that I am employed in the County of Sacramento, California; that I am 18 years of age or older and not a party to the within entitled cause; that my business address is 1515 K Street, P. O. Box 944255, Sacramento, California, 94244-2550.

2. I am readily familiar with the business practice of the California Department of Justice, Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service; the correspondence will be deposited with the United States Postal Service this same day in the ordinary course of business.

3. On June 22, 1992, following the ordinary business. practice, I served the attached: MOTION TO INTERVENE BY THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF CALIFORNIA in said cause by placing a true copy thereof enclosed in a sealed, postage prepaid, envelope in the mail room of the California Department of Justice, Office of the Attorney General for collection and mailing in Sacramento, California, addressed as follows:

SEE ATTACHED MAILING LIST

I declare under penalty of perjury that the foregoing is true and correct.

Executed June 22, 1992, at Sacramento, California.

Mark J. Urban
(Typed Name)

Mark Urban
Declarant

Peter Arth, Jr., General Counsel,
California Public Utilities Comm.
State Building, Room 5138
505 Van Ness Avenue
San Francisco, CA 94102

United States Dept. of Energy
Western Area Power Adm.
Area Manager
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Sacramento, CA 95825

San Juan Suburban Water Dist.
Gen. Manager and Secretary
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P.O. Box 2157
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S. San Joaquin Valley Pwr. Athor.
Manager
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Bakersfield, CA 93301

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Lloyd Harvego, Exec. Dir.
Transmission Agency of No. Ca.
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Sacramento, CA 95851-0129

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city of Palo Alto
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San Diego Gas & Electric Co.
George L. Nelms
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San Diego, CA 92112

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Director
7001 Fair Oaks Blvd.
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City Administrator
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Shasta Dam Area P.U.Dist.
President
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San Diego, CA 92112

Jane Ryan
Newman & Holtzinger
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Ste. 1000
Washington, D.C. 20036

UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ENERGY REGULATORY COMMISSION

SOUTHERN CALIFORNIA EDISON, PACIFIC GAS AND ELECTRIC COMPANY and SAN DIEGO GAS & ELECTRIC COMPANY	)	Docket No. ER92-626-000

MOTION TO INTERVENE BY TEE DEPARTMENT OF WATER RESOURCES OF THE STATE OF CALIFORNIA

DANIEL E. LUNGREN
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WALTER E. WUNDERLICH
Acting Assistant Attorney General

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Attorneys for the California Department of Water Resources

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Southern California Edison Company Pacific Gas and Electric Company and San Diego Gas & Electric Company	))))	Docket No. ER92-626-000

NOTICE OF EXTENSION OF TIME

(June 18, 1992)

On June 15, 1992, the Transmission Agency of Northern California (TANC) filed a motion for an extension of time to file protests and motions to intervene in response to the Commission's Notice of Filing issued June 12, 1992, in the above-docketed proceeding. In its motion, TANC states that Pacific Gas and Electric Company's, Southern California Edison Company's and San Diego Gas & Electric Company's (Companies') joint rate filing in this proceeding raises both technical and policy issues which must be reviewed and analyzed in connection with two other Pacific Gas and Electric Company (PG&E) dockets (Docket Nos. ER92-595-000 and ER92-596-000) which are closely interrelated. TANC requests that the Commission establish the same due date for interventions for the three interrelated dockets. TANC also states that additional time is needed because of the size and complexity of PG&E's filing in the above-docketed proceeding. TANC further states that the Companies do not object to the motion for additional time and that those TANC members who will be beneficiaries of the services contemplated in the Companies' filing support the motion.

Upon consideration, notice is hereby given that an extension of time for filing protests and motions to intervene is granted tc and including June 29, 1992.

Lois D. Cashell
Secretary

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

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CITY HALL
221 WEST PINE ST.
LODI, CA 95241-1910

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Southern California Edison Company Pacific Gas and Electric Company and San Diego Gas & Electric Company	)	Docket No. ER92-626-000

WESTERN AREA POWER ADMINISTRATION
MOTION TO INTERVENE, TO CONSOLIDATE,
AND REQUEST FOR HEARING
(June 29, 1992)

The Western *Area* Power Administration ("Western"), an agency of the U.S. Department of Energy ("DOE"), files this Motion to Intervene, To Consolidate, and Request for Hearing in this docket. Western makes this filing in accordance with the Federal Energy Regulatory Commission's ("Commission") Rules of Practice and Procedure.[1]

I. Introduction

On June 9, 1992, the Southern California Edison Company, Pacific Gas and Electric Company, and San Diego Gas and Electric Company ("the Companies") tendered for filing with the Commission a Coordinated Operations Agreement between Southern California Edison Company, Pacific Gas and Electric Company, and San Diego Gas and Electric Company, and Participants in the California-Oregon Transmission Project ("COTP"). The Commission issued a Notice of Filing

[1] 18 CFR Part 385 (1991).

on June 12, 1992, with motions to intervene or protests due by June 26, 1992. By Order dated June 18, 1992, the Commission extended the filing deadline to June 29, 1992.

Construction of the COTP was authorized by the Energy and Water Development Appropriation Act, 1985,[2] which provided that:

> Notwithstanding the provisions of section 8 of Public Law 88-552, the Secretary of Energy is authorized to construct or participate in the construction of such additional facilities as he deems necessary to allow mutually beneficial power sales between the Pacific Northwest and California and to accept funds contributed by non-Federal entities for that purpose:

On December 19, 1984, Western, virtually all the public power entities in northern California, including a consortium of public power entities represented by the Transmission Agency of Northern California ("TANC"), PG&E, Southern California Edison Company, San Diego Gas and Electric Company, the Los Angeles Department of Water and Power, and the California Department of Water Resources executed a Memorandum of Understanding ("MOU") for the COTP. The MOU set *Forth* the general plan for construction and operation of the COTP. The Supplemental Appropriations Act for Fiscal Year 1985 approved the MOU, and named the project "The Harold T. (Bizz) Johnson California-Pacific Northwest

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[2] Act of July 16, 1984, Pub. L. No. 98-360, 98 Stat. 403, 416. The cited portion of the Act is codified at 16 U.S.C. § 837g-1.

Intertie Line."[3] An Annex to the MOU was executed as of February 22, 1986, which added additional participants to the COTP.

II. Motion to Intervene

Western is a signatory to the MOU and subsequent COTP documents, and has entitlements to capacity in the COTP. In addition, Western is a part owner of the existing Pacific Northwest-Pacific Southwest AC Intertie. Western will be directly affected by any interconnection and operating arrangements which may be established in this docket, and no other party can represent Western's interests effectively. Western is continuing to study the Companies' filing, and takes no position at this time as to the reasonableness of th@ filing.

For these reasons, Western requests the commission to grant its Motion to Intervene in this docket. Western requests that all correspondence, pleadings, and other communications concerning this docket be served upon:

Michael S. Hacskaylo
Office of General Counsel
Western Area Power Administration
P.O. Box 3402
Golden, CO 80401-3398

---

[3] Act of August 15, 1985, Pub. L. No. 99-88, 99 Stat, 293, 321; H.R. Rep. No. 99-142, 99th Cong., 1st Sess. 83-84 (1985); S. Rep. No. 99-82, 99th Cong., 1st Sess. 102 (1985): H.R. Rep. No. 99-236, 99th Cong., 1st Sess. 51-52 (1985).

Western also requests that an additional copy of any correspondence and orders be sent to:

David G. Coleman
Area Manager
Western Area Power Administration
1825 Bell Street, Suite 105
Sacramento, CA 95825-1097

III. Motion to Consolidate

To date, the Commission has issued Notices of Filing on COTP issues in 5 dockets.[5] Four of the 5 dockets[6] deal with COTP interconnection ahd operational issues. Western believes that it would serve the public interest in a rapid resolution of these related matters if the Commission consolidates Docket EL92-26-000 (TANC, May 21, 1992); Docket EL92-32-000 (Vernon, June 4, 1992); Docket ER92-595-000 (PG&E, June 5, 1992); and Docket ER92-626-000 (Southern California Edison, et al., June 12, 1992) into one proceeding.[6]

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[4] Docket EL92-26-000 (TANC, May 21, 1992); Docket EL92-32-000 (Vernon, June 4, 1992); Docket ER92-595-000 (PG&E, June 5, 1932); Docket ER92-596-000 (PG&E, June 9, 1992); and Docket ER92-626-000 (Southern California Edison, et al., June 12, 1992).

[5] Docket EL92-26-000 (TANC, May 21, 1992); Docket EL92-32-000 (Vernon, June 4, 1992); Docket ER92-595-000 (PG&E, June 5, 1992); and Docket ER92-626-000 (Southern California Edison, et al., June 12, 1992).

[6] The remaining docket, ER92-596-000, deals with transmission service by PG&E to TANC under an existing TANC-PG&E Coordinated Transmission Service contract. Western believes that this docket should stand alone.

IV. Request for Hearing

Should the Commission grant Western's Motion to Intervene, Western also moves the Commission to schedule a hearing in this and related dockets. Given the complexities of the issues at hand, a hearing will serve the pubic interest by permitting intervenors to present their views on COTP interconnected operations and related matters.

V. conclusion

For the reasons stated herein, Western requests the Commission to grant its Motion to Intervene, its Motion for Consolidation, and schedule a hearing in this docket.

Respectfully submitted,

Michael S. Hacskaylo

Michael S. Hacskaylo
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Fax No. (303) 231-7486

CERTIFICATE OF SERVICE
FERC Docket ER92-626-000

I hereby certify that on June 29, 1992, I mailed a copy of the

WESTERN AREA POWER ADMINISTRATION
MOTION TO INTERVENE, TO CONSOLIDATE,
AND REQUEST FOR HEARING

by first class mail, postage prepaid, to:

Peter Arth, Jr., General Counsel
California Public Utilities Commission
State Building, Room 5138
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California Department of Water Resources
Chief, Energy Division
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Shasta Dam Area public Utility District
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central Valley, CA 96019

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city of Lodi
city Clerk, City Hall
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George L. Nelms
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Bonnie L. Johnson
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Golden, CO 80401-3398
303-231-1534
Fax No. 303-231-7486

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Pacific Gas and Electric Company	)	Docket No. ER92-596-000

WESTERN AREA POWER ADMINISTRATION
MOTION TO INTERVENE
AND REQUEST FOR HEARING
(June 29, 1392)

The Western Area Power Administration ("Western"), an agency of the U.S. Department of Energy ("DOE"), files this Motion to Intervene and Request for Hearing in this docket. Western makes this filing in accordance with the Federal Energy Regulatory Commission's ("Commission") Rules of Practice and Procedure.[1]

I. Introduction

On June 1, 1992, the Pacific Gas and Electric Company ("PG&E") tendered for filing with the Commission a Transmission Rate Schedule for COTP Service provided to the Transmission Agency of Northern California by Pacific Gas and Electric Company. The Commission issued a Notice of Filing on June 9, 1992, with motions to intervene or protests due by June 23, 1992. By Order aated June 18, 1992, the Commission extended the filing deadline to June 29, 1992.

[1] 18 CFR Part 385 (1991).

Construction of the COTP was authorized by the Energy and Water Development Appropriation Act, 1985,[2] which provided that:

> Notwithstanding the provisions of section 8 of Public Law 88-552, the Secretary of Energy is authorized to construct or participate in the construction of such additional facilities as he deems necessary to allow mutually beneficial power sales between the Pacific Northwest and California and to accept funds contributed by non-Federal entities for that purpose;

On December 19, 1984, Western, virtually all the public power entities in northern California, including a consortium of public power entities represented by the Transmission Agency of Northern California ("TANC"), PG&E, Southern California Edison Company, San Diego Gas and Electric Company, the Los Angeles Department of Water and Power, and the California Department of Water Resources executed a Memorandum of Understanding ("MOU") for the COTP. The MOU set forth the general plan for construction and operation of the COTP. The Supplemental Appropriations Act for Fiscal Year 1985 approved the MOU, and named the project "The Harold T. (Bizz) Johnson California-Pacific Northwest Intertie Line."[3] An Annex to the MOU was executed as of

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[2] Act of July 16, 1984, Pub. L. No. 98-360, 98 Stat. 403, 416. The cited portion of the Act is codified at 16 U.S.C. § 837g-1.

[3] Act of August 15, 1985, Pub. L. No. 99-88, 99 Stat. 293, 321; H.R. Rep. No. 99-142, 99th Cong., 1st Sess. 83-84 (1985); S. Rep. No. 99-82, 99th Cong., 1st Sess. 102 (1985); H.R. Rep. No. 99-236, 99th Cong., 1st Sess. 51-52 (1985).

February 22, 1986, which added additional participants to the COTP.

11. Motion to Intervene

Western is a signatory to the MOU and subsequent COTP documents, and has entitlements to capacity in the COTP. In addition, Western's transmission system is directly connected with PG&E's transmission system. As a result, Western may be directly affected by any interconnection and operating arrangements which may be established in this docket. No other party can represent Western's interests effectively. Western is continuing to study PG&E's filing, and takes no position on the filing at this time.

For these reasons, Western requests the Commission to grant its Motion to Intervene in this docket. Western requests that all correspondence, pleadings, and other communications concerning this docket be served upon:

Michael S. Hacskaylo
Office of General Counsel
Western Area Power Administration
P.O. Box 3402
Golden, CO 80401-3398

Western also requests that an additional copy of any correspondence and orders be sent to:

David G. Coleman
Area Manager
Western Area Power Administration
1825 Bell Street, Suite 105
Sacramento, CA 95825-1097

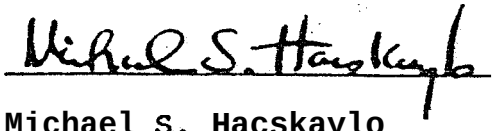
III. Request for Hearing

Should the Commission grant Western's Motion to Intervene, Western also moves the Commission to schedule a hearing in this docket. Given the complexities of the issues at hand, a hearing will serve the pubic interest by permitting intervenors to present their views on COT? interconnected operations and related matters.

IV. Conclusion

For the reasons stated herein, Western requests the Commission to grant its Motion to Intervene and schedule a hearing in this docket.

Respectfully submitted,



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CERTIFICATE OF SERVICE
FERC Docket ER92-596-000

I hereby certify that on June 29, 1992, I mailed a copy of the

WESTERN AREA POWER ADMINISTRATION
MOTION TO INTERVENE
AND REQUEST FOR REARING

by first class mail, postage prepaid, to:

Peter Arth, Jr., General Counsel
California Public Utilities Commission
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California Department cf Water Kesources
Chief, Energy Division
P.O. Box 942836
Sacramento, CA 94236-0001

Carmichael Water District
Director
7001 Fair Oaks Boulevard
Carmichael, CA 95608

city of Vernon
City Administrator
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Vernon, CA 90058

San Juan Suburban Water District
General Manager and Secretary
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Roseville, CA 95746

Shasta Dam Area Public Utility District
President
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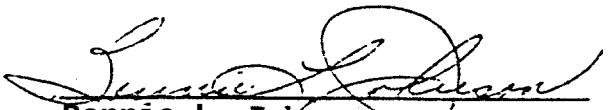

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TANC's proposed rate schedule is seriously inadequate to accomplish its asserted purpose. 7/

TANC's ICORS fails to set forth many of the necessary rates, terms, and conditions for the interconnection and coordinated operation of inter-regional transmission lines, For example, TANC'S proposed rate schedule provides no rate, or rate methodology, for services performed under it. Instead, it states only that these rates are to be determined by mutual agreement of the parties, at some undefined date, through an "executive committee." ICORS Section 5.3.2. Similarly, TANC's proposal leaves for future negotiation by an executive committee the development of policies and procedures for, among other things: (1) coordinating the operation of COTP with the Pacific Intertie; (2) scheduling transactions; (3) curtailing schedules; and (4) determining and allocating transmission line losses. ICORS Sections 5.3.2 and 5.3.9. As TANC points out in its Application, however, the parties attempted unsuccessfully for more than four years to negotiate agreements on the terms and conditions for interconnection and for coordinated operations.

7/ As noted in footnote 6, supra, the Companies are not required by the Commission's regulations to rebut specifically each of TANC's allegations in this Answer. In addition, the Companies believe that they have no obligation at this point to provide a detailed reply to the terms of TANC's proposed ICORS, because those proposed terms could be given effect only after FPA Section 202(b) and 210 proceedings, and are, in any event, part of an exhibit to an Application that should be dismissed. The Companies reserve their right to provide a more detailed critique of TANC's ICORS if the Commission should decide to permit TANC's Application to proceed.

Application at 24. If the parties again are unable to reach agreement, the ICORS provides that these matters would be submitted to dispute resolution (ICORS Sections 5.2 and 19), which likely would result in additional filings and litigation before the Commission. Moreover, TANC's proposed rate schedule provides no mechanism to resolve *any* of these crucial matters pending the completion of dispute resolution. Thus, TANC's proposed rate schedule would likely lead to additional disputes among the parties, and could delay establishment of procedures for interconnection and coordinated operation until well beyond COTP's planned in-service date.

Moreover, Section 8.3 would apparently permit TANC members to schedule transactions to and from PG&E's Tesla substation and to and from COTP "at no additional costs and without the need for any other agreements or amendments to existing agreements." 8/ If this section is intended to provide TANC with free transmission over PG&E's underlying system, it is patently unreasonable. 9/ On June 1, 1992, pursuant to its commitment to TANC and under Section 205 of the

---

8/ Because this issue has a direct impact on PG&E, PG&E is sponsoring this paragraph individually.

9/ PG&E's Tesla Substation is not part of COTP and is not a transaction point for scheduling power. Transaction pointe are only loads, resources, and control area boundaries, not substations. Transactions at Tesla such as TANC proposes are simply accounting fictions contrary to utility practice. Transactfons sought by TANC members can be accomplished properly through either existing interconnection agreements or the COTP Transmission Service Rate Schedule filed by PG&E in Docket No. ER92-596-000.

FPA, PG&E filed its COTP Transmission Service Rate Schedule. ("CTSRS") (Docket No. ER92-596-000) to provide TANC members with service for use in conjunction with COTP. Section 8.3 of the ICORS is nothing other than an attempt to circumvent the interconnection agreements and the CTSRS by requiring PG&E to provide free service. This is clearly unacceptable. The CTSRS proceeding provides the proper forum for TANC to air any issues it has regarding the nature of and prices for use of PG&E's transmission system in conjunction with COTP.

In contrast to the inadequacies of TANC's ICORS, the Companies' and PG&E's Section 205 filings set forth comprehensively the rates, terms, and conditions for service. Under the FPA, these rate echedules can be placed into effect in a timely manner, and TANC will be accorded a full and fair opportunity to challenge any provision it views as unjust or unreasonable. Therefore, considering both the legal deficiencies in TANC's application and the inadequacies in its proposed rate schedule, the Companies' and PG&E's Section 205 filings clearly provide the proper vehicle for evaluating the ratee, terms, and conditions of the services to be provided.

III. CONCLUSION

For the reasons set forth herein, the Companies move to dismiss TANC's Application for an order requiring interconnection and coordinated operations. That Application ie moot in light of the rate schedules filed by PG&E and the Companies to provide these services, Moreover, TANC is not authorized by the PPA sections it relies upon to seek the relief it is requesting, If TANC's Application is not dismissed, the Companies request an opportunity for hearing prior to any action thereon, as required by the PPA.

Respectfully submitted,

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Attorneys for
Pacific Gas and Electric Company
Southern California Edison Company
San Diego Gas & Electric Company

June 22, 1992

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing document upon *each* person designated on the official service list compiled *by* the Secretary in this proceeding.

Dated at Washington, D.C. this 22nd day of June, 1992.

Brian R. Gish
Newman & Holtzinger, P.C.
1615 L Street, N.W.
Suite 1000
Washington, D.C. 20036

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

City of Vernon, California, v. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company	Docket No. EL92-32-000

NOTICE OF INTERVENTION

Pursuant to Rule 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission, the California Public Utilities Commission hereby gives notice of its intervention in the above-docketed proceeding.

Respectfully submitted,

PETER ARTH, JR.
EDWARD W. O'NEILL
PETER G. FAIRCHILD

By: /s/ PETER G. FAIRCHILD
Peter G. Fairchild

505 Van Ness Avenue
San Francisco, CA 94102
(415) 703-2049

Attorneys for the California Public Utilities Commission

DATED: June 17, 1992

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all known parties of record in this proceeding by mailing by first-class a copy thereof properly addressed to each such party.

Dated at San Francisco, California, this 17th day of June, 1992.

/s/ PETER G. FAIRCHILD

Peter G. Fairchild

/lkw

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

City of Vernon, California	)	
	)	
v.	)	Docket No. EL92-32-000
	)	
Pacific Gas and Electric Company,	)	
	)	
Southern California Edison Company, and	)	
	)	
San Diego Gas & Electric Company.	)	

INTERVENTION, ANSWER, PROTEST, AND MOTION TO DISMISS OF PACIFIC GAS AND ELECTRIC COMPANY, SOUTHERN CALIFORNIA EDISON COMPANY, AND SAN DIEGO GAS & ELECTRIC COMPANY

Pursuant to Rules 211, 212, and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("FERC" or "Commission"), 18 C.F.R. §§ 385.211, 385.212, and 385.214 (1991), Pacific Gas and Electric Company ("PG&E"), Southern California Edison Company ("Edison"), and San Diego Gas & Electric Company ("SDG&E") (collectively the "Companies") hereby file this Intervention, Answer, Protest, and Motion to Dismiss in response to the "Application for Order Prescribing Terms And Conditions For Interconnection And Coordinated Operation Of Facilities Of Applicant And Respondents[2] ("Application") filed by the City of Vernon, California ("Vernon") on May 28, 1992. Vernon asks FERC to order the interconnection and coordinated operation of the California-Oregon Transmission Project ("COTP"), which is being built by the

Transmission Agency of Northern California ("TANC"), with the facilities of PG&E and the Pacific AC Intertie, Vernon's Application purports to incorporate by reference the Application for interconnection filed by TANC for the same purpose in FERC Docket No. EL92-26-000.

As Commission precedent clearly recognizes, Vernon's Application serves no useful purpose because the Companies and PG&E have filed rate schedules to provide the services that Vernon is requesting FERC to order in this docket. Thus, Vernon's Application should be dismissed as moot. Moreover, even if Vernon's Application were not moot, it should be dismissed on the ground that the FPA provisions that Vernon has invoked, Sections 202(b) and 210, 1/ do not provide authority for the relief requested.

The Commission should consider only the rate schedules that PG&E and the Companies have proposed because the Federal Power Act ("FPA") regulatory scheme confers on utilities the right to define the parameters of the services they are to provide, subject only to a finding by the Commission that the terms and conditions of such services are unjust, unreasonable, or unduly discriminatory. TANC's and Vernon's attempts to circumvent this regulatory scheme and preempt the Companies' and PG&E's rate schedules with their Applications under FPA Sections 202(b) and 210 must be rejected as both unnecessary and inappropriate.

1/ *16* U.S.C. §§ 824a(b) and 824i (1988).

I. MOTION TO INTERVENE

PG&E, Edison, and SDG&E hereby move to intervene individually in this proceeding, to the extent that intervention is required. Vernon has named all three Companies as "Respondents" in its Application. If, in fact, PERC considers the Companies to be respondents, they are automatically parties pursuant to 18 C.F.R. § 385.102(c)(2) (1991). In any event, all three Companies should have party status because they have an interest which may be directly affected by the outcome of this proceeding, i.e., they have rights in the Pacific Intertie, which Vernon seeks to have operated in a coordinated manner with COTP.

The person who should receive service of documents on Behalf of the Companies is:

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II. ANSWER, PROTEST, AND MOTXON TO DISMISS

Vernon's Application contains no substantive supporting information or legal analysis of its own, but merely "incorporates by reference" the Application for interconnection that TANC submitted in Docket No. EL92-26-000 on May 8, 1992. 2/ The Companies have filed an answer to TANC's Application on this date. The Companies attach that answer hereto as Attachment A, and incorporate it herein as the Companies' answer to Vernon's Application.

In sun, the Companies protested and moved to dismiss TANC's Application, and also hereby protest and move to dismiss Vernon's Application, for the following reasons: (1) those applications for interconnection orders are moot and unnecessary in light of PG&E's and the Companies' voluntary filing of rate schedules to provide for interconnection and coordinated operations in Docket Nos. ER92-595-000 and ER92-626-000 (see Attachment A at 5-11); (2) Section 202(b) of the FPA cannot be used to order an interconnection except fox the purpose of facilitating a sale or exchange of energy with the utility being ordered to interconnect (see Attachment A at 12-16); (3) Section 210 of the FPA is not available to TANC because it is not an electric utility or other'entity entitled to request

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2/ The Companies note that 18 C.F.R. Part 32 of the Commission's regulations requires that an applicant for an interconnection order submit specified information. Because Vernon has not submitted any of this information, but has merely referenced information submitted by another entity in a different docket, its application is deficient.

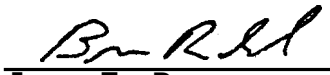
relief under that section (see Attachment A at 16-18); 3/ (4) the factual accusations *TANC* made about the Companies' dealings with respect to the COTP are largely distorted and untrue (see Attachment A at 18-20); and (5) the proposed rate schedule TANC submitted is inadequate to govern the complex transactions involved in interconnecting and coordinating the operations of major inter-regional transmission lines (see Attachment A at 20-23).

3/ The Companies note that Vernon, unlike *TANC*, may be an "electric utility" under FPA Section 3(22). However, there is a separate reason why Vernon may not be able to avail itself of Section 210. Section 210(a)(1)(A) states that, upon application, the Commission may issue an order requiring the physical connection of other facilities "with the facilities of such applicant." Vernon does not allege sufficient information in its Application to show its ownership or control status with respect to COTP facilities. If Vernon is not requesting fnterconnection with its facilities, Section 210 relief is not available to it.

III. CONCLUSION

For the reasons set forth herein and in the attached Answer to TANC's Application which is incorporated herein, the companies request that Vernon's Application be dismissed. If Vernon's Application is not dismissed, the Companies request the opportunity for hearing required by FPA Sections 202(b) and 210.

Respectfully submitted,



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Attorneys for
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San Diego Gas & Electric Company

June 22, 1992

ATTACHMENT A

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Transmission Agency of Northern California	)	
v.	)	Docket No. EL92-26-000
Pacific Gas and Electric Company,	)	
Southern California Edison Company, and	)	
San Diego Gas & Electric Company.	)	

INTERVENTION, ANSWER, PROTEST, AND MOTION TO DISMISS OF PACIFIC GAS AND ELECTRIC COMPANY, SOUTHERN CALIFORNIA EDISON COMPANY AND SAN DIEGO GAS & ELECTRIC COMPANY

Pursuant to Rules 211, 212, and 214 of the Rules of practice and Procedure of the Federal Energy Regulatory Commission ("FERC" or "Commission"), 18 C.F.R. §§ 385.211, 385.212, and 385.214 (1991), Pacific Gas and Electric Company ("PG&E"), Southern California Edison Company ("Edison"), and San Diego Gas & Electric Company ("SDG&E") (collectively the "Companies") hereby file this Intervention, Answer, Protest, and Motion to Dismiss in response to the "Application For Order Prescribing Terms And Conditions For Interconnection And Coordinated Operation Of Facilities Of Applicant And Respondents" ("Application") filed by the Transmission Agency of Northern California ("TANC") on May 8, 1992, and amended on May 20, 1992. TANC asks FERC to order the interconnection and coordinated

operation of the California-Oregon Transmission Project ("COTP") with the facilities of PG&E and the Pacific AC Intertie, and appends to its Application a "rate schedule" setting forth the terms and conditions under which it would like to take service. TANC made this filing despite a firm commitment from the Companies voluntarily to file rate schedules governing such interconnection and coordination services.

As Commission precedent clearly recognizes, TANC's Application serves no useful purpose bacauee the Companies and PG&E have filed rate schedule8 to provide the services that TANC is requesting FERC to order in this docket. Thus, TANC's Application should be dismissed as moot. Moreover, as demonstrated below, even if TANC's Application were not moot, it should be dismissed on the ground that the Federal Power Act ("FPA") provisions that TANC has invoked, Sections 202(b) and 210 1/, do not provide authority for the relief requested.

The Commission should consider only the rate schedules that PG&E and the Companies have proposed because the FPA regulatory scheme confers on jurisdictional utilities the right to define the parameters of the services they are to provide, subject only to a finding by the Commission that the terms and conditions of such services are unjust, unreasonable, or unduly discriminatory. TANC'S attempt to circumvent this regulatory scheme and preempt the Companies' and PG&E's rate schedules with its Application under FPA Sections 202(b) and 210 and its own

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1/ 16 U.S.C. §§ 824a(b) and 8241 (1988).

"rate schedule" must be rejected as both unnecessary and inappropriate.

I. MOTION TO INTERVENE

PG&E, Edison, and SDG&E hereby move to intervene individually in this proceeding, to the extent that intervention is required. TANC has named all three Companies as "Respondents" in it3 Application. If, in fact, FERC considers the Companies to be respondents, they are automatically parties pursuant to 10 C.F.R. § 385.102(c)(2) (1991). In any event, all three Companies should have party etatus because they have an interest which may be directly affected by the outcome of this proceeding, i.e., they have rights in the Pacific Intertie, which TANC seeks to have operated in a coordinated manner with COTP.

The person who should receive service of documents on behalf of the Companies is:

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II. ANSWER, PROTEST, AND MOTION TO DISMISS

The Commission should not entertain TANC's Application for two independent reasons. First, TANC's Application is moot because PG&E and the Companies have filed rate schedules that provide for the Interconnection and coordination that TANC requests FERC to order. Second, FPA Sections 202(b) and 210, upon which TANC relies, do not provide authority for the relief it seeks. The Commission thus should dismiss TANC's Application and proceed to consider the justness and reasonableness of the terms and conditions of the rate schedules that the Companies and PG&E have filed,

A. TANC'S APPLICATION HAS BECOME UNNECESSARY AND MOOT BECAUSE PG&E AND THE COMPANIES HAVE SUBMITTED RATE SCHEDULES TO PROVIDE FOR INTERCONNECTION AND COORDINATED OPERATIONS

Even if the Commission had the authority to consider TANC's Application pursuant to FPA Sections 202(b) and 210, which the Companies contend it does not for the reasons stated in part B below, the Commission should dismiss the Application as moot because PG&E and the Companies have voluntarily submitted rate schedules to provide for the requested interconnection and coordinated operation. A proceeding under FPA sections 202(b) and 210 would not only serve no useful purpose in light of FPA

Section 205 proceedings on the same subject, but also would cause substantially more delay and burden.

As TANC acknowledges, the Companies promised TANC in February 1992, that, if no mutual agreement were reached as to interconnection and coordination issues, the Companies would, by June 1, 1992, file rate schsdulae to effectuate such services. Application at 24-25; and Exhibit J. PG&E, in fact, filed an Interconnection Rate Schedule (Docket No. ER92-595-000) and a COTP Transmission Service Rate Schedule (Docket No. ER92-596-000) on June 1, 1992, and the Companies filed a Coordinated Operations Agreement on June 8, 1992 (Docket No. ER92-626-000). 2/ As discussed more fully in Part D below, these rats schedules provide for the services that TANC is asking FERC to order, and do so more comprehensively than does the "rate schedule" that TANC proposes. TANC is able to participate fully in Section 205 proceedings to determine whether the rates, terms, and conditions of those rate schedules are just and reasonable. It is a mystery why TANC felt compelled to expend its resources, and those of the Companies and the Commission, in pursuit of extraordinary relief rather than waiting less than a month to see what the Companies would file.

The Section 205 proceeding is the traditional and most efficient forum to address the issues about which TANC may

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2/ As the Companies explained in a letter to TANC dated May 28, 1992, slightly more time was unexpectedly required to file the Coordinated Operations Agreement due to the sudden death of a key person involved in that filing.

be concerned. Section 205(c) of the FPA and Section 35.1 of the Commission's regulations require that every public utility file full and complete rate schedules. Section 205(e) allows the Commission to enter into an investigation of the lawfulness of such rate schedules. There is no provision in the FPA for those desiring services from a public utility to file and ask the Commission to adopt rate schedules governing those services.

TANC asserts that it needs the requested services to be in effect by the projected COTP in-service date of January 1, 1993, and uses this timeliness argument as a reason for its Application. Application at 27, 34. However, PG&E's and the companies' rate schedules filed under FPA Section 205 can be in effect by January 1, 1993, whereas a proceeding under Sections 202(b) or 210 would probably not be completed by then. While the Commission may accept and place into effect PG&E's and the Companies' rate schedules within sixty days pending an investigation, Section 202(b) allows the Commission to direct an interconnection only "after opportunity for hearing" and after finding that the interconnection would be in the public interest and would create no undue burden for the utility. Similarly, a Section 210 order can be issued only after notice, "opportunity for an evidentiary hearing,. a proposed order, and after making a number of specified determinations. See PPA Sections 210(b), (c); 212. Thus, the Section 205 process provides a far better chance for having terms and conditions for the interconnection

and coordinated operation in place prior to COTP energization than proceedings under Sections 202(b) and 210.

The Commission's decision in Kentucky Utilities Co., 4 F.E.R.C. ¶ 61,120 (1978), provides clear precedent for dismissing TANC's Application in light of PG&E's and the Companies' Section 205 filings. There, two customers filed an FPA Section 202(b) application asking FERC to order physical interconnection of a new delivery point with Kentucky Utilities ("KU"). Several months later, KU filed a general wholesale rate increase, and committed to the desired interconnection under the terms and conditions of the new rate schedule it had filed. After KU made this commitment, the Commission dismissed the Section 202(b) application as unnecessary. The Commission specifically found that the Section 202(b) process would cause more delay and "would serve no useful purpose" in light of KU's assent to provide the service:

> We note that, under Section 202(b), this Commission is empowered to *compel* a public utility to establish a physical connection with the facilities of another electric system only after the opportunity for a hearing. Despite any attempt to expedite such proceedings, a full evidentiary hearing would necessarily occasion some delay in effectuating a tap for which the applicants allege an imminent need. . . . In view of the company's manifestation of assent to the interconnection under the terms of the rate schedule which is herein accepted for filing and which will become effective, Subject to refund, prior to the data upon which Section 202(b) proceeding8 could reasonably be completed, it appears that initiation of an indecendent Section 202(b) hearing would serve no useful purpose and might

> unnecessarily postpone energization of the interconnection.

Id. at 61,279 (emphasis added). The Commission noted that the customers would have the opportunity in the rate case to litigate disputed provisions that apply to any service point. Id. at 61,279-80. See also Illinois Mun. Utils. Ass'n v. Illinois Power Co., 56 F.P.C. 960, 962 (1976) (Commission terminated Section 202(b) proceeding where utility had tendered unexecuted interconnection agreement).

In addition to the timeliness advantage of Section 205 proceedings, they also are considerably less cumbersome than Section 202(b) and 210 proceedings. The applicant in Section 202(b) and 210 proceedings has the burden of proving a number of specific facts before an order can be issued. See, e.g., City of Piqua v. Dayton Power & Light Co., 46 F.E.R.C. ¶ 61,143 at 61,519 (1989) (Commission specifies issues that must be addressed in hearing pursuant to Sections 202(b) and 210). Under Section 202(b), the applicant must prove four facts: (1) that the action is necessary or appropriate in the public interest; (2) that no undue burden would be placed upon the public utility: (3) that the order would not compel the enlargement of generating facilities; and (4) that the public utility's ability to render adequate service to its customers would not be impaired. Tapoco, Inc., 39 F.E.R.C. ¶ 61,363 at 62,183-85 (1987), modified, 45 F.E.R.C. ¶ 61,266 (1988). The requirements for a Commission order under FPA Section 210 are

even more numerous and more specific. FERC must determine that such an order:

(1) is in the public interest,

(2) would --

(A) encourage overall conservation of energy or capital,

(B) optimize the efficiency of use of facilities and resources, or

(C) improve the reliability of any electric utility system or Federal power marketing agency to which the order applies, and

(3) meets the requirements of Section 212, which requires that FERC determine that the order:

(a) is not likely to result in a reasonably ascertainable uncompensated economic loss for any electric utility, qualifying cogenerator, or qualifying small power producer, as the case may be, affected by the order;

(b) will not place an undue burden on an electric utility, qualifying cogenerator, or qualifying small power producer, as the case may be, affected by the order;

(c) will not unreasonably impair the reliability of any electric utility affected by the order; and

(d) will not impair the ability of any electric utility affected by the order to render adequate service to its customers.

Further, Sections 210(b)(2) and 212(c) outline the specific procedures that must be followed before an order under Section 210 can issue. These procedures involve affording an opportunity for an evidentiary hearing, issuing a proposed order, providing time for the parties to reach agreement, and issuing a final

order. Obviously, proceedings under either Section 202(b) or 210 would be long and complicated.

For these reasons, the Commission should follow its Kentucky Utilities precedent and dismiss TANC's Application as unnecessary. Proceeding under Sections 202(b) or 210 would require the time-consuming and wasteful litigation of issues that need not be determined in light of PG&E's and the Companies' willingness to provide service. 3/ Any concerns that TANC may have about the terms and conditions of such service can be fully aired in the Section 205 proceedings relating to PG&E's and the Companies' rate schedule filings.

B. FPA SECTIONS 202(b) AND 210 DO NOT PROVIDE AUTHORITY FOR THE RELIEF TANC REQUESTS

In its Application, TANC asks the Commission to order interconnection and coordinated operation of the COTP with facilities of PG&E and the Pacific AC Intertie. Application at 2. TANC relies upon FPA Sections 202(b) and 210 as authority for its requested relief. Application at 1, 29-33. However, TANC's Application does not meet the statutory criteria of either BPA Section.

3/ The Companies reserve their rights to litigate any and all issues under Sections 202(b) and 210 if proceedings should be instituted. Nothing in the Companies' and PG&E's Section 205 filings or in this Motion should be deemed an admission of any facts required to be proved under Sections 202(b) or 210.

1. **Section 202(b) Is Available Only *To* Establish A Physical Connection To Purchase Energy From Or Exchange Energy With The Utility Ordered To Interconnect**

TANC's Application does not demonstrate that TANC is entitled to relief under PPA Section 202(b). Section 202(b) provides that the Commission may, by order after notice and opportunity for hearing:

> [D]irect a public utility (if the Commission finds that no undue burden will be placed upon such public utility thereby] to establish physical connection of its transmission facilities with the facilities of one or more other persons engaged in the transmission or sale of electric energy, to sell energy to or exchange energy with such persons . . . .

16 U.S.C. 824a(b) (1988) (emphasis added). TANC omits the last underlined phrase above when it quotes Section 202(b) (Application at 29), but this phrase in fact defeats TANC's reliance on this Section. TANC does not allege that it wants or needs the requested interconnection for the purpose of buying energy from the Companies or exchanging energy with them. Yet, this is the only purpose for which an interconnection order under Section 202(b) is available. This is further clarified by the proviso that follows the quoted portion above, which states that the Commission shall have no authority "to compel the enlargement of generating facilities for such purposes, nor to compel such public utility to sell or exchange energy when to do so would impair its ability to render adequate service to its customers." Id.

There is apparently no precedent where the Commission has ordered a Section 202(b) interconnection independent from the applicant's desire to purchase energy from or *exchange energy* with the utility subject to the order. TANC cites four cases in support of the Commission's authority to order the interconnection under Section 202(b) (Application at 30), but all have significantly different facts and provide no support for TANC's request. Pennsylvania Water & Power Co. v. FPC, 343 U.S. 414 (1952), was not even a Section 202(b) case. There, the Supreme Court upheld the Commission's authority under Section 206 to require the utility to continue to buy, sell, and transmit power with another utility in the same manner in which they had been functioning for more than twenty years under a contract filed with the FPC as a rate schedule. Id. at 421-23. The Court noted in dicta that "under certain circumstances" the Commission was authorized to compel interconnection under Section 202(b), but this was clearly not the authority relied upon by the Commission or the Court (id. at 423), and, in any event, the case involved the purchasing of power from the interconnected utility.

In New England Power Co. v. FPC, 349 F.2d 258 (1st Cir. 1965), the Commission relied on Section 202(b) to order New England Power Company ("NEPCO") to sell electric energy to the applicant, but said that NEPCO could use an existing interconnection through a NEPCO affiliate to accomplish this. NEPCO challenged the order on the basis that authority under section 202(b) was limited to circumstances where a new

interconnection was required. Id. at 262. The First Circuit upheld the Commission, holding that the Commission could order a sale of energy under Section 202(b) without directing a new physical connection. Id. at 263. This case does not support the Commission's authority to order a utility to make a Section 202(b) interconnection for purposes other than facilitating an energy sale by, or exchange with, that utility. 4/

TANC also cites Gainesville Utilities Dept. v. Florida Power Corp., 402 U.S. 515 (1971), and Village of Elbow Lake v. Otter Tail Powex Co., 46 F.P.C. 675 (1971), modified, Otter Tail Power Co. v. FPC, 473 F.2d 1253 (8th Cir. 1973), as general support for Section 202(b) authority. However, in both of these cases, the applicant was specifically seeking an interconnection for the purpose of purchasing energy from the utility with which it sought interconnection. In Gainesville, the Commission ordered the interconnection sought so that the applicant could rely on power deliveries through the interconnection in lieu of building expensive reserve generation. In Village of Elbow Lake, the Commission ordered the interconnection that the applicant sought for the purpose of obtaining its entire energy

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4/ Although the court used broad language in this case suggesting that Section 202(b) contains the authority to order an interconnection, a sale, or both, this statement was made in the context of ordering a sale without ordering an interconnection. The court did not have before it and was plainly not addressing the situation where the commission would attempt to order an interconnection independent of a sale. The NEPCO case has apparently never been relied upon as authority Lor allowing an interconnection order in the absence of a sale by or exchange with the utility that is ordered to interconnect.

requirements, but denied the request for wheeling as beyond its authority.

Section 202(b), therefore, applies only to requests Lor interconnections associated with a sale by or exchange of energy with the utility with which interconnection is sought. The regulatory scheme intended that utilities provide other services, such as coordination or interconnections to facilitate transmission, on a discretionary basis. In Southeastern Power Administration v. Kentucky Utilities Co., 16 F.E.R.C. ¶ 63,051 at 65,247 (1981), aff'd, 25 F.E.R.C. ¶ 61,204 (1983), a Commission administrative law judge succinctly described how Congress specifically left certain activities to be voluntary under section 202, and that only an interconnection for the purpose of a sale could be ordered:

> In § 202 of the Power Act, Congress left to . . the discretion of the utilities such actions and practices as "coordination of facilities for the generation, transmission, and sale of electric energy.. Transmission for others, or "wheeling" as transmission and certain other activities have been termed for convenience, *were* left voluntary activities. Only interconnection for purpose of sale could be required (§202(b)).

Id. (emphasis added).

Accordingly, because TANC requests an interconnection only to facilitate transmission, not, for the purpose of buying energy from or exchanging energy with the Companies, Section 202(b) does not authorize the Commission to grant such relief.

Even if TANC's request for an interconnection were appropriate under Section 202(b), its request for the coordinated operation of COTP and the Pacific Intertie is inappropriate, Coordinated operations were always intended by Section 202 to be voluntary and discretionary. See Central Iowa Power & Coop. v. FERC, 606 F.2d 1156, 1167 (D.C. Cir. 1979); Southeastern Power, 16 P.E.R.C. ¶ 63,051. Section 202(b) allows the Commission only to order a "physical connection," a sale or exchange, and terms and conditions necessary to such order. Coordinated operation, unless necessary for a sale or exchange, is a separate concept. When Congress intended to address coordinated operation, it did so explicitly, such as in FPA Sections 202(a) and 210(a)(1)(C).

Further, it is clear that two of the three Companies could not possibly be subject to an interconnection order under Section 202(b), because neither Edison nor SDG&E owns any facilities that could be directly interconnected with COTP. Although TANC vaguely asks for interconnection with the Pacific AC Intertie, the Intertie facilities are not jointly owned by the three Companies.

For the foregoing reasons, TANC has not stated a sufficient case for relief under Section 202(b).

2. TANC Is Not An Entity That Can Request Relief Under FPA Section 210

TANC also asserts that FERC has authority under PPA Section 210 to require physical interconnection and coordination

of operations. Application at 31. However, TANC is not an entity that may *seek* relief under Section 210.

Section 210(a)(1) provides that the entities that may apply for an order thereunder are *any* electric utility, geothermal power producer, Federal power marketing agency, qualifying cogenerator, or qualifying small power producer. TANC is none of these. The only entity in the list that could possibly be thought to encompass TANC is "electric utility." However, "electric utility" is defined by Section 3(22) of the FPA as "any person or State agency which sells electric energy: TANC does not sell electric energy, and, therefore, is not an "electric utility.' 5/

In Confederated Salish and Kootenai Tribes of the Flathead Reservation v. M ——— , 2% F.E.R.C. 161,141 (1984), FERC denied an application for a wheeling order under FPA Section 211 because the applicant was not an entity entitled to seek relief thereunder. Section 211 contains the same list of eligible applicants as Section 210, except that Section 211 does not include qualifying facilities. In Confederated Salish, FERC found that the Tribes' application "fails at the threshold", because the Tribes were not in the business of selling electricity, even though they might be at some future time:

5/ *TANC* does not claim that it is an electric utility, nor does it claim that it sells electric *energy*, The most TANC alleges is that it is a "person" engaged in the transmission of electric power and energy and is "authorized" to engage in the purchaee and sale of electric power and energy. Application at 30.

> Because they are not engaged in the business of selling electric energy, the Tribes fall outside the definition of an electric utility found in section 3(22). The Tribes are not a Federal power marketing agency, nor do they claim to be a geothermal power producer.
>
> Section 211 provides no avenue of wheeling relief for applicants such as the Tribes who are not now electric utilities but may be at some future time.

28 F.E.R.C. at 61,252.

The fact that TANC is an agency that represents entities which may be electric utilities does not make TANC an electric utility. In Long Lake Energy Corp., 51 F.E.R.C. ¶ 61,262 at 61,772 (1990), the Commission held that the definition of electric utility in Section 3(22) encompasses only the entity actually selling energy, and does not include that entity's parents, subsidiaries, or affiliates. Similarly, the electric utility status of TANC's members does not extend to the separate organization that represents them.

Because TANC is not an electric utility or other entity that may seek Section 210 relief, its Application thereunder must be dismissed.

C. TANC'S RECITATION OF THE FACTUAL BACKGROUND IS DISTORTED AND SHOULD BE IGNORED

The Companies note that while TANC uses about four pages of its Application to discuss the legal basis for its request (Application at 29-32), it uses about twenty pages to describe its version of the factual background relating *to* COTP. Application at 7-27. Most of this "factual" material is slanted

and distorted to create the false impression that the Companies were unwilling to provide *for* interconnection or for coordinated operations after the California Public Utility Commission's decision to deny the Companies' participation in COTP. Because TANC's Application should be dismissed on the legal grounds discussed above, it would be wasteful to respond to each misstatement in TANC's lengthy recitation of the *background,* but a general response is necessary so that these false accusations Uo not go unrebutted. 6/

The Companies have never wavered in their intent to provide for interconnection and for coordinated operation with COTP. Indeed, the Companies spent much time in the last several years drafting agreements, reviewing TANC draft agreements, and attending meetings in an effort to reach mutual understandings. The interconnection and coordinated operation of a major new inter-regional transmission line with existing major inter-regional transmission lines in which transfer capacity is shared among several parties raises many complex and difficult issues. The Companies offered significant concessions in an attempt *to* reach a compromise, and to develop an agreement that, when taken as a whole, would be acceptable to all parties. When it became apparent that the parties would be unable to resolve all of their

---

6/ Because TANC's Application is not a complaint as defined in 18 C.P.R. § 385.206(a) (1991), the Companies are not required *by* 18 C.P.R. § 385.213(c)(2) (1991) to deny specifically and in detail each material allegation. The Companies reserve their right to do so if TANC's Application is not dismissed.

differences sufficiently in advance of COTP's projected January 1, 1993 completion date to ensure that the agreement could be put into effect in time for COTP's commencement, PG&E and the Companies committed to make unilateral filings of the necessary interconnection and coordination arrangements, This commitment assured the COTP participants of the benefits of interconnected and coordinated operation and thus left no room for doubt as to the sincerity of the Companies' intentions.

The Companies have now fulfilled their commitment to file rate schedules to provide the requested services. TANC's accusations against the Companies are both unwarranted and irrelevant to its Application, and should be disregarded.

D. TANC'S PROPOSED "RATE SCHEDULE" DOES NOT PROVIDE ADEQUATE TERMS FOR THE INTERCONNECTION AND COORDINATED OPERATION OF COTP WITH THE INTERTIE FACILITIES

TANC appended to its Application a document entitled "California-Oregon Transmission Project Interconnection and Coordinated Operations Rate Schedule," or "ICORS." TANC asserts that this "rate schedule" contains "all necessary terms and conditions to effectuate the interconnection and coordinated operation of the COTP with the PG&E electric system and the Intertie" and requests that the Commission order its adoption in response to TANC's Application. Application at 32-34. Because TANC's Application must be dismissed for the legal reasons set forth in Parts A and B above, no useful purpose would be served by detailing herein the numerous deficiencies and unreasonable provisions in TANC's proposal. It must be noted, however, that

TANC's proposed rate schedule is seriously inadequate to accomplish its asserted purpose. 7/

TANC's ICORS fails to set forth many of the necessary rates, terms, and conditions for the interconnection and coordinated operation of inter-regional transmission lines. For example, TANC'S proposed rate schedule provides no rate, or rate methodology, for services performed under it. Instead, it states only that these rates are to be determined by mutual agreement of the parties, at some undefined date, through an "executive committee." ICORS Section 5.3.2. Similarly, TANC's proposal leaves for future negotiation by an executive committee the development of policies and procedures for, among other things: (1) coordinating the operation of COTP with the Pacific Intertie; (2) scheduling transactions; (3) curtailing schedules; and (4) determining and allocating transmission line losses. ICORS Sections 5.3.2 and 5.3.9. As TANC points out in its Application, however, the parties attempted unsuccessfully for more than four years to negotiate agreements on the terms and conditions for interconnection and for coordinated operations.

7/ As noted in footnote 6, supra, the Companies are not required by the Commission's regulation8 to rebut specifically each of TANC's allegations in this Answer. In addition, the Companies believe that they have no obligation at this point to provide a detailed reply to the terms of TANC's proposed ICORS, because those proposed terms could be given effect only after FPA Section 202(b) and 210 proceedings, and are, in any event, part of an exhibit to an Application that should be dismissed. The Companies reserve their right to provide a more detailed critique of TANC's ICORS if the Commission should decide to permit TANC's Application to proceed.

Application at 24. If the parties again are unable to reach agreement, the ICORS provides that these matters would be submitted to dispute resolution (ICORS Sections 5.2 and 19), which likely would result in additional, filings and litigation before the Commission. Moreover, TANC's proposed rate schedule provides no mechanism to resolve any of these crucial matters pending the completion of dispute resolution. Thus, TANC's proposed rate schedule would likely lead to additional disputes among the parties, and could delay establishment of procedures for interconnection and coordinated operation until well beyond COTP's planned in-aremice date.

Moreover, Section 8.3 would apparently permit TANC members to schedule transactions to and from PG&E's Tesla substation and to and from COTP "at no additional costs and without the need for any other agreements or amendments to existing agreements." 8/ If this section is intended to provide TANC with free transmission over PG&E's underlying system, it is patently unreasonable. 9/ On June 1, 1992, pursuant to its commitment to TANC and under Section 205 of the

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8/ Because this issue has a direct impact on PG&E, PG&E is sponsoring this paragraph individually.

9/ PG&E's Tesla Substation is not part of COTP and is not a transaction point for scheduling power. Transaction points are only loads, resources, and control area boundaries, not substations. Transactions at Tesla such as TANC proposes are simply accounting fictions contrary to utility practice. Transactions sought by TANC members can be accomplished properly through either existing interconnection agreements or the COTP Transmission Service Rate Schedule filed by PG&E in Docket No. ER92-596-000.

FPA, PG&E filed its COTP Transmission Service Rate Schedule ("CTSRS") (Pocket No. ER92-596-000) to provide TANC members with service for wheeling in conjunction with COTP. Section 8.3 of the ICORS is nothing other than an attempt to circumvent the interconnection agreements and the CTSRS by requiring PG&E to provide free service. This is clearly unacceptable. The CTSRS proceeding provides the proper forum for TANC to air any issues it has regarding the nature of and prices for use of PG&E's transmission system in conjunction with COTP.

In contrast to the inadequacies of TANC's ICORS, the Companies' and PG&E's Section 205 filings set forth comprehensively the rates, terms, and conditions for service. Under the BPA, these *rate* schedules can be placed into effect in a timely manner, and TANC will be accorded a full and fair opportunity *to* challenge any provision it views as unjust or unreasonable. Therefore, considering both the legal deficiencies in TANC's application and the inadequacies in its proposed rate schedule, the Companies' and PG&E's Section 205 filings clearly provide the proper vehicle for evaluating the rates, terms, and conditions of the services to be provided.

III. CONCLUSION

For the reasons set forth herein, the Companies move to dismiss TANC's Application for an order requiring interconnection and coordinated operations. That Application is moot in light of the rate schedules filed *by* PG&E and the Companies to provide these services. Moreover, TANC is not authorized *by* the FPA erections it relies upon to seek the relief it is requesting. If TANC's Application is not dismissed, the Companies request an opportunity for hearing prior to any action thereon, as required *by* the FPA.

Respectfully submitted,

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Attorneys For
Pacific Gas and Electric Company
Southern California Edison Company
San Diego Gas & Electric Company

June 22, 1992

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing document upon *each* person designated *on the* official service list compiled *by* the Secretary in this proceeding.

Dated at Washington, D.C. this 22nd *day* of June, 1992.

Brian R. Gish
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing document upon each person designated on the official service list compiled *by* the Secretary in this proceeding,

Dated at Washington, D.C. this 22nd day *of* June, 1992.

Brian R. Gish
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Washington, D.C. 20036

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

City of Vernon, California,

Applicant,

v.

Pacific Gas and Electric Company

Southern California Edison Company and

San Diego Gas & Electric Company,

Respondents.

Docket No. EL92-32-000

ANSWER OF CITY OF VERNON
TO MOTION TO DISMISS OF EDISON, PG&E AND SDG&E

Southern California Edison Company, Pacific Gas and Electric Company, and San Diego Gas & Electric Company (collectively the "Companies") have moved to dismiss the application filed by the City of Vernon, California ("Vernon") in the instant docket. Vernon herein answers in opposition to the motion.

Vernon's application in this docket incorporates by reference an application filed by Transmission Agency of Northern California ("TANC") in Docket No. EL92-26-000. Concurrently with their filing of a pleading (intervention, answer, protest, and motion) directed to Vernon's application, the Companies filed a basically similar pleading directed to TANC's application. As the owner of the largest share of COTP, TANC is playing the lead role in the litigation protection of the interests of the COTP participants in COTP-related proceedings. Vernon will continue

to defer to TANC in connection with the motion of the Companies to dismiss the application in Docket No. EL92-26-000. (Vernon has moved for intervention in that docket.) The answer to that motion will presumably constitute at least a partial response to the aforesaid EL92-32-000 motion to dismiss. At this juncture, Vernon addresses, first, assertions in the motion that relate to Vernon but not to TANC and, second, an apparent--and troublesome--attempt by the Companies to squirm out of commitments given by them to provide a procedural vehicle for this forum to establish appropriate terms and conditions to govern various inter-entity relationships and arrangements associated with COTP.

The Companies contend that TANC is not an electric utility, and they base a plea for dismissal on that fact. They concede, as, indeed, they must, that the same contention cannot be applied to Vernon. They recognize (motion at p. 6, note 3) that Vernon is an electric utility within the definition of the term in the Federal Power Act. They state (id.):

> However, there is a separate reason why Vernon may not be able to avail itself of (FPA] Section 210. . . . Vernon does not allege sufficient. information in its application to show its ownership or control status with respect to COTP facilities.

The assertion is nonsense. Vernon stated in its application that it is a participant in COTP. Vernon added in its paragraph 4 that TANC's "proposed Commission order and 'California-Oregon Transmission Project Interconnection and Coordinated Operation Rate Schedule' would accord to all COTP participants, including Vernon, the same relief." Vernon noted in its paragraph 5 that Vernon "files this application to assure

that the Commission treats Vernon as a co-applicant co-equal with TANC in pursuit of the remedy TANC seeks on behalf of all COTP participants." Vernon incorporated by reference TANC's aforesaid application, In that application the term "COTP Participants" is used as synonymous with owners of undivided shares in the COTP facilities. *See*, e.g., page 2 note 1 and accompanying text, identifying Vernon as one such COTP participant,

Indeed, the prepared testimony of witness Speckman filed by the three Companies in Docket No. ER92-626-000 **includes** the following words (at pp. 9-10):

> It is my understanding that the current COTP Participants and their approximate transfer capability allocation percentages are: . . . the California City of Vernon ***(7.6%)***. . . .

(These pages of the Speckman testimony are attached hereto). That percentage traiislates to 121 MW of transfer entitlement. Vernon's ownership interest in COTP is 8.053% of the whole.

Accordingly, the motion to dismiss Vernon's application is without merit.

The troublesome aspect of the pleading of the three Companies is apparent from these words on page *2:*

> The Commission should consider only the rate schedules that PG&E and the Companies have proposed because the Federal Power Act ("FPA") regulatory scheme confers on utilities the right to define the parameters of the services they are to provide, subject only to a finding by the Commission that the terms and conditions are unjust, unreasonable, or unduly discriminatory.

(Presumably, the word "not" was inadvertently omitted between "are" and "unjust".)

The words are not perfectly clear, but it would seem

that the intended meaning is that the Commission is statutorily empowered either to accept or to reject the rate schedules proffered by the Companies but cannot revise those proffered rate schedules to establish just and reasonable and not unduly preferential or discriminatory tariff arrangements.

Indeed, because Vernon's application supports TANC's proposed Commission order and rate schedule, the position of the Companies that Vernon's application is now moot is apparently founded on the rationale that the Commission cannot consider COTP tariff arrangements other than those proposed by the Companies.

If that is not the intended meaning, the true intent is, at best, obscure. If that is, indeed, the intended meaning, the Companies should be chastised for attempting to perpetrate what would in effect constitute a fraud on the forum, and on governmental officials at the highest legislative and executive levels.

It shall be recalled that the Companies have repeatedly offered to provide COTP-related services on appropriate terms and conditions?' and, if such terms and conditions cannot be fashioned by negotiation, to present them to the Commission in a Section 205 filing. If the Companies now mean to contend that they can present proposed tariff provisions to the Commission on a take-it-or-lsave-it-basis, the commitments (given to various

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*/ See, e.g., the COTP Memorandum of Understanding ("MOU"), included in Exhibit E of TANC's application. As Vernon has pointed out in pleadings filed in City of Vernon v. Pacific Gas and Electric Company, Docket No. EL92-2-000, the MOU entitles Vernon to COTP arrangements with the utility signatories.

affected entities, Congress, high-level officials of the executive branch, etc.) were sham. The Companies need not make a Commission filing to present a take-it-ox-leave-it proposal to the COTP participants, and a filing on that basis (if its legality were upheld) adds nothing to what can be offered without resort to a filing.

WHEREFORE, Vernon respectfully requests that the motion to dismiss be denied.

Respectfully submitted,

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Attorneys for City of Vernon

July 1992

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document upon the participants in this proceeding in accordance with the requirements of Rule 2010 of the Rules of Practice and Procedure.

Dated at Washington, D.C., this 6th day of July 1992.

Arnold Fieldman

Exhibit Nos. _____ (BMS-1)
Through _____ (BMS-3)

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Southern California Edison Company	)	
	)	
Pacific Gas and Electric Company	)	
	)	
and	)	Docket No. ER92-626
	)	
San Diego Gas & Electric Company	)	

PREPARED DIRECT TESTIMONY
AND EXHIBITS OF
BERNARD M. SPECKMAN

ON BEHALF OF
SOUTHERN CALIFORNIA EDISON COMPANY
PACIFIC GAS AND ELECTRIC COMPANY
AND
SAN DIEGO GAS & ELECTRIC COMPANY

JUNE 1992

Substation (including bus work and circuit breakers) to the COT? Terminus. The Tesla ByPass is described and illustrated in COA Appendix D, Section D.l.3 and Attchment D-2, and is discussed in Mr. Filippi's Prepared Direct Testimony, Exh. No, ___ (JLF-1). A single line diagram of COTP is included as Attachment D-1 to Appendix D.

Q. Are there facilities being constructed in the Pacific Northwest in connection with COTP?

A. Yes. To increase transfer capability between the Pacific Northwest and California at COB by 1600 MW above the present 3200 MW transfer capability, transmission reinforcements in the Pacific Northwest are required. Such new facilities and facility modifications, referred to as the Northwest Reinforcement Project, include a new substation -- the Captain Jack Substation -- near Malin, Oregon, a six-mile 500 kV line to COB to join COTP with the Captain Jack Substation, and reinforcements to, and upgrading of, existing Bonneville Power Administration ("BPA"), Portland General Electric Company, and PacifiCorp transmission facilities. The Northwest Reinforcement Project facilities are described and illustrated in COA Appendix D, Section D.2 and Attachment D-3.

Q. Which entities have entitlements in COTP transfer capability and what is the extent of their entitlements?

A. It is my understanding that the current COTP Participants and their approximate transfer capability allocation

percentages are: Western (11%); the California City of Vernon (7.6%); CDWR (no initial allocation, with rights to 6% of other Participants' allocations commencing in the year 2005); the Transmission Agency of Northern California ("TANC") (77%) -- whose members include the California Cities of Alameda, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, and Ukiah, the Plumas-Sierra Rural Electric Cooperative, SMUD, the Modesto Irrigation District, and the Turlock Irrigation District; -- the San Joaquin Valley Power Authority (2.5%); Shasta Dam Area Public Utility District (1%); San Juan Suburban Water District (.06%); and Carmichael Water District (.06%).

IV.

ROLE OF PG&E As CONTROL AREA OPERATOR

Q. What is PG&E's role with respect to the operation of COTP?

A. COTP is located within PG&E's control area and was designed to be operated as part of a coordinated three-line system. PG&E is the logical choice to coordinate three-line system operation because it already performs control area functions with the Pacific Northwest for the Pacific AC Intertie. Moreover, because of its responsibilities as an operator of a control area, PG&E must be able to exercise a degree of operational control over COTP to maintain the reliability of the control area. The COA, therefore, provides that PG&E shall be the operator of the Coordinated three-line system. However, as acknowledged in COA Section 6.2.2, the COTP